

Message Text

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ORIGIN STR-05

INFO OCT-01 EUR-12 IO-13 ISO-00 COME-00 FEA-01 AGRE-00
CEA-01 CIAE-00 DODE-00 EB-08 FRB-03 H-01 INR-07
INT-05 L-03 LAB-04 NSAE-00 NSC-05 PA-01 AID-05
SS-15 ITC-01 TRSE-00 USIA-06 PRS-01 SP-02 OMB-01
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DRAFTED BY STR/RLMATTHEISEN/MFD
APPROVED BY STR/WBKELLY, JR.
COM/DSHARK
STATE/RWHITE
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E.O. 11652: N/A

TAGS: ETRD, GATT

SUBJECT: CONSULTATIONS ON EC/EFTA RULES OF ORIGIN

REF: BRUSSELS 13445

1. WE APPRECIATE MISSION'S REPORT OF THE CONSULTATIONS
HELD IN BRUSSELS ON OCTOBER 3 REGARDING THE EC/EFTA RULES
OF ORIGIN. SINCE THE REPORT WAS NOT SEEN BY MATTHEISEN
AND SHARK PRIOR TO THEIR DEPARTURE WE WOULD LIKE TO ADD A
FEW POINTS AND COMMENT ON ASPECTS OF THE DISCUSSION THAT
SEEM SIGNIFICANT TO US.

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2. MR. PINGLE OPENED THE DISCUSSION BY INFORMING US THAT
THE COMMISSION HAD DECIDED, VERY RELUCTANTLY, THAT NO
GENERAL ALTERNATIVE VALUE RULE COULD BE INTRODUCED BECAUSE
OF MEMBER STATE OPPOSITION. THE PRESENT STRUCTURE OF THE
EC/EFTA ORIGIN RULESYSTEMHAD TO BE MAINTAINED.

3. THIS IS VERY DISTURBING BECAUSE WE CONSIDERED THE GEN-

ERAL ALTERNATIVE VALUE RULE TO BE THE MOST PROMISING APPROACH IN RESOLVING OUR PROBLEMS AND BECAUSE WE HAD THOUGHT THAT SOME PROGRESS WAS BEING MADE. ORIGINALLY, THE EFTA COUNTRIES AND GERMANY HAD SUGGESTED A GENERAL ALTERNATIVE 50 PERCENT VALUE RULE -- THAT IS, IF AN IMPORTER DID NOT WISH TO USE THE COMPLEX AND RESTRICTIVE PROCESS RULES, HE COULD USE THIS ALTERNATIVE AND IMPORT MATERIALS AND

COMPONENTS UP TO 50 PERCENT OF THE VALUE OF THE FINISHED GOODS. AFTER CONSIDERING THIS PROPOSAL FOR SOME TIME, THE COMMISSION INFORMED US THAT THE BEST THEY COULD OFFER WOULD BE A 20 PERCENT ALTERNATIVE VALUE RULE APPLIED ONLY TO CCCN CHAPTERS 84-92. COMMISSIONER GUNDELACH, HOWEVER, REJECTED THIS AS INSUFFICIENTLY LIBERAL AND THE COMMISSION DECIDED TO WAIT A YEAR IN THE HOPE THAT ECONOMIC CONDITIONS WOULD IMPROVE AND SOMETHING CLOSER TO A 40 OR 50 PERCENT RULE COULD BE ADOPTED.

4. WE NOW FIND THAT THIS WHOLE APPROACH HAS COLLAPSED AND THAT THE COMMISSION IS FORCED TO ATTACK THE PROBLEM IN A PIECEMEAL WAY. IN ESSENCE, AS WE UNDERSTAND IT, THE NEW APPROACH IS FIRST TO SELECT INDIVIDUAL PRODUCTS IN CCCN 84-92 WHICH ARE SUBJECT TO BOTH A PROCESSING AND A 40 PERCENT VALUE CRITERION BUT WITH RESPECT TO WHICH THE LATTER IS THE OPERATIVE CONSTRAINT (BECAUSE THE PRODUCT NORMALLY SATISFIES THE PROCESSING CRITERION). THESE PRO-
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DUCTS WOULD HENCEFORTH BE LISTED AS SUBJECT ONLY TO A 40 PERCENT CRITERION, ALTHOUGH IN SOME CASES A 35 OR EVEN SMALLER FIGURE MIGHT BE NECESSARY. SECONDLY, INDIVIDUAL PRODUCTS NOW SUBJECT TO THE 5 PERCENT RULE WOULD BE MADE SUBJECT TO A 40 PERCENT CRITERION, ALTHOUGH IN SOME CASES A 35 PERCENT OR EVEN SMALLER FIGURE WOULD BE USED.

5. THE COMMISSION WOULD PRESENT THESE CHANGES TO THE MEMBER STATES AS MERE SIMPLIFICATION OR AS REMOVAL OF "ANOMALIES." SIMPLIFICATION WOULD OCCUR WHEN A PROCESSING RULE IS BYPASSED BUT THIS WOULD HAVE A LIBERALIZING EFFECT BECAUSE IT WOULD REMOVE UNCERTAINTY AND BOOKKEEPING AND INVENTORY PROBLEMS FOR FIRMS. THE REMOVAL OF "ANOMALIES" WOULD EVIDENTLY RESULT IN BOTH INCREASING AND DECREASING RESTRICTIONS, BECAUSE, ACCORDING TO MR. KNUDSEN, SOME PRODUCTS NOW SUBJECT TO THE 40 PERCENT CRITERION NEED MORE PROTECTION WHILE SOME PRESENTLY SUBJECT TO THE 5 PERCENT RULE DO NOT NEED AS MUCH PROTECTION AS THEY NOW GET.

6. OUR CONCERN IS THAT THE NEW APPROACH FORCES THE COMMISSION INTO AN ITEM-BY-ITEM NEGOTIATION AND FORCES IT TO JUSTIFY EACH PRODUCT CHANGE AS A NON-SUBSTANTIVE SIM-

PLIFICATION OR ANOMALY REMOVAL. IT WILL EVIDENTLY RESULT IN BOTH RAISING AND LOWERING VALUE CRITERIA. IT WILL LEAVE A HIGHLY SELECTIVE, DIFFERENTIATED SYSTEM SUBJECT TO MANIPULATION FOR PROTECTIVE PURPOSES. A STRIKING ILLUSTRATION OF SUCH MANIPULATION WAS GIVEN IN THE COMMISSION'S RESPONSE TO MR. SHARK'S QUESTIONS CONCERNING A RECENT CHANGE IN THE RULES AFFECTING A PARTICULAR PRODUCT. THE COMMISSION ADMITTED THAT THE CHANGE INCREASED RESTRICTIVENESS OF THE RULE. IT WAS REQUESTED BY ONE MEMBER STATE ON A POLITICAL BASIS AND ACCEPTED BY THE OTHERS. THE

LOG-ROLLING PROCESS BY WHICH EACH MEMBER STATE TAKES CARE OF ITS SENSITIVE PRODUCTS IN EXCHANGE FOR A WILLINGNESS TO PERMIT OTHERS TO TAKE CARE OF THEIRS CHARACTERIZED THE CONFIDENTIAL

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ORIGINAL NEGOTIATION OF THESE RULES AND WILL CONTINUE TO CHARACTERIZE CHANGES UNDER THE COMMISSION'S NEW APPROACH.

7. DESPITE THESE COMMENTS, WE DO NOT WISH TO DEPRECATE MR. KNUDSEN'S EFFORTS. THEY MAY WELL RESULT IN SOME CHANGES BENEFICIAL TO U.S. TRADE. WE NOTE HIS EXPECTATION THAT MOST OF THE PROBLEMS CITED IN THE 50 ILLUSTRATIVE CASES WE SUBMITTED SOME TIME AGO COULD BE SOLVED BY THIS PROCESS. BUT THESE WERE ONLY EXAMPLES AND THE PROCESS COULD GO ON FOREVER.

8. WE ARE, INCIDENTALLY, INTRIGUED BY THE APPEARANCE OF MR. KNUDSEN AS OFFICER IN CHARGE OF ORIGIN RULES IN THE COMMISSION. UNTIL RECENTLY, THIS POSITION HAS BEEN HELD BY A HARD-NOSED FRENCH NATIONAL. THE APPEARANCE OF A LIBERAL DANE SUGGESTS A PARTING GIFT BY GUNDELACH TO THE EFTA COUNTRIES AND THE U.S. MR. MATTHEISEN IS ACQUAINTED WITH MR. KNUDSEN SINCE THE LATTER WAS AMONG A GROUP OF EFTA CUSTOM OFFICIALS WITH WHICH MR. MATTHEISEN AND MR. SLAGHT (COMMERCE) DISCUSSED THE OPERATION OF THESE RULES IN EUROPE SOME TIME AGO. MUCH OF OUR EARLY INSIGHT INTO THE OPERATION OF THE RULES DERIVES FROM THESE CONSULTATIONS.

9. WE ARE STILL PONDERING THE IMPLICATION OF THE CHANGES THE COMMISSION IS CONSIDERING IN THE RULES GOVERNING CUMULATION, ESPECIALLY THE COMMISSION'S ALLUSION TO THE POSSIBLE NEED TO TIGHTEN RESTRICTIONS AFFECTING THIRD COUNTRIES IN ORDER TO LIBERALIZE CUMULATION. THIS MAY REQUIRE MORE INVESTIGATION.

10. FINALLY, MR. MATTHEISEN AND MR. SHARK APPRECIATED THE OPPORTUNITY OF HAVING AN EXCHANGE WITH THE COMMISSION
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ON THE ALLEGED TIGHTENING OF ORIGIN RULES GOVERNING TEXTILES BEFORE PARTICIPATING IN A PUBLIC MEETING ON THE ISSUE IN NEW YORK ON OCTOBER 11 WITH THE EXPORTER'S TEXTILE ADVISORY COMMITTEE. WE WILL BE DOING SOME FURTHER ANALYSIS OF THIS PROBLEM.

11. WE CONTINUE TO VALUE YOUR CONSIDERED OPINION ON ORIGIN RULES AND OTHER ISSUES RELATING TO US/COMMUNITY RELATIONS. WE WILL KEEP YOU INFORMED OF POLICY DECISIONS REGARDING THIS ISSUE AND THE NEED FOR ANY FURTHER CONSULTATIONS.

12. ADDRESSEES SHOULD NOTE THAT INFORMATION IN THIS CABLE HAS BEEN PROVIDED TO US BY THE COMMISSION IN STRICT CONFIDENCE BEFORE THEY HAVE HAD AN OPPORTUNITY TO DISCUSS IT WITH MEMBER STATES. ANY INDICATION OF OUR KNOWLEDGE OF IT WOULD BE ACUTELY EMBARRASSING TO THE COMMISSION. VANCE

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